

PTO/SB/08 Equivalent

INFORMATION DISCLOSURE
STATEMENT BY APPLICANT

(Multiple sheets used when necessary)	Application No.	10/676,534
	Filing Date	September 30, 2003
	First Named Inventor	Mohamed K. Diab
	Art Unit	3736
SHEET 1 OF 14	Examiner	Eric F. Winakur
	Attorney Docket No.	MASIMO.7CP1C11

U.S. PATENT DOCUMENTS

Examiner Initials	Cite No.	Document Number Number - Kind Code (if known) Example: 1,234,567 B1	Publication Date MM-DD-YYYY	Name of Patentee or Applicant	Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear
E	1	Re. 35,122	12/19/1995	Corenman et al.	
	2	3,638,640	02/01/1992	Shaw	
E	3	4,038,536	07/26/1977	Feintuch	
E	4	4,157,708	06/12/1979	Imura	
E	5	4,458,691	07/10/1984	Netravali	
	6	4,537,200	08/27/1995	Widrow	
E	7	4,582,068	04/15/1986	Phillipps et al.	
	8	B1 4,653,498	04/18/1989	New, Jr. et al.	
	9	4,653,498	03/31/1987	New, Jr. et al.	
E	10	4,667,680	05/26/1987	Ellis	
	11	4,714,341	12/22/1987	Hamaguri et al.	
	12	4,751,931	06/21/1988	Briller et al.	
E	13	4,793,361	12/27/1988	DuFault	
E	14	4,799,486	01/24/1989	DuFault	
	15	4,799,493	01/24/1989	DuFault	
E	16	4,800,885	01/31/1989	Johnson	
	17	4,802,486	02/07/1989	Goodman et al.	
	18	4,863,265	09/05/1989	Flower et al.	
	19	4,867,571	09/19/1989	Frick et al.	
	20	4,869,254	09/26/1989	Stone et al.	
	21	4,883,353	11/28/1989	Hausman et al.	
	22	4,911,167	03/27/1990	Corenman et al.	
	23	4,928,692	05/29/1990	Goodman et al.	
	24	4,934,372	6/19/1990	Corenman et al.	
E	25	4,949,710	08/21/1990	Dorsett et al.	
E	26	4,951,680	08/28/1990	Kirk et al.	
	27	4,956,379	09/11/1990	Hall	
	28	4,960,126	10/02/1990	Conlon et al.	
E	29	4,967,571	11/06/1960	Sporri	

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Date Considered

11/15/06

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SHEET 2 OF 14		Examiner Eric F. Winakur
		Attorney Docket No. MASIMO.7CP1C11

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E	30	5,036,857	08/06/1991	Semmlow et al.	
	31	5,040,201	08/13/1991	Slump	
	32	5,041,187	08/20/1991	Hink et al.	
	33	5,054,495	10/08/1991	Uemura et al.	
	34	5,243,993	09/14/1993	Alexander et al.	
	35	5,379,774	01/10/1995	Nishimura et al.	
	36	5,494,032	02/27/1996	Robinson et al.	
	37	5,853,364	12/29/1998	Baker, Jr. et al.	
	38	6,083,172	07/04/2000	Baker, Jr. et al.	
	39	6,411,833 B1	06/25/2002	Baker, Jr. et al.	

FOREIGN PATENT DOCUMENTS						
Examiner Initials	Cite No.	Foreign Patent Document Country Code-Number-Kind Code Example: JP 1234567 A1	Publication Date MM-DD-YYYY	Name of Patentee or Applicant	Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear	T ¹
E	40	EP 0 359 206 B1	03/29/1995	Kanda		
	41	JP-A-63-171539	07/15/1988	(In Japanese)		
	42	WO 92/15955	09/17/1992	Diab et al.		
	43	WO 97/00041	01/03/1997	Yorkey		
	44	WO 98/42249	10/01/1998	Baker et al.		
	45	WO 98/43071	10/01/1998	Baker et al.		

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-Issue number(s), publisher, city and/or country where published.	T ¹
E	46	U.S. District Court, Central District of California (Western Division - Los Angeles) Civil Docket for Case #: 2:00-cv-06506-MRP-AJW.	
	47	U.S. District Court, Central District of California (Western Division - Los Angeles) Civil Docket for Case #: 2:01-cv-07292-MRP-AJW.	
	48	U.S. District Court, Central District of California (Western Division - Los Angeles) Civil Docket for Case #: 2:01-cv-07293-MRP-AJW.	
	49	Complaint for Patent Infringement of US. Patent Nos. 6,206,830 B1 and 6,157,850; Demand for Jury Trial, dated 7/6/01.	

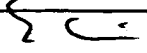
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		Attorney Docket No.
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	50	First Amended Complaint for Patent Infringement of U.S. Patent Nos. 6,206,830 B1, 6,157,850 and 6,263,222 B1; Demand for Jury Trial, dated 7/18/01.	
	51	Nellcor's and Mallinckrodt's Answer to First Amended Complaint, dated 8/20/01.	
2	52	Nellcor's and Mallinckrodt's Amended and Supplemental Answer and Counterclaims to Masimo Corporation's First Amended Complaint in Case No. CV-01-7292 MRP (AJWx), dated 5/31/02.	
	53	Masimo's Reply to Nellcor's and Mallinckrodt's Amended and Supplemental Answer and Counterclaims to Masimo's First Amended Complaint in Case No. CV-01-7292 MRP (AJWx), dated 8/27/02.	
	54	Complaint for Patent Infringement of U.S. Patent Nos. 4,653,498, 5,078,136 and Re. 36,000, dated 11/17/99.	
	55	Defendant Masimo Corp.'s Answer and Counterclaims, dated 12/8/99.	
	56	Mallinckrodt's and Nellcor's Reply to Counterclaims of Masimo; Demand for Jury Trial, dated 12/28/99.	
	57	Mallinckrodt's and Nellcor's Amendment Complaint for Patent Infringement of U.S. Patent Nos. 4,653,498, 5,078,136, Re. 35,122 and Re. 36,000; Demand for Jury Trial, dated 1/24/00.	
	58	Defendant Masimo Corp.'s Amended Answer and Counterclaims, dated 2/7/00.	
	59	Nellcor's Reply to Amended Counterclaims of Masimo Corporation, dated 2/22/00.	
	60	Mallinckrodt's and Nellcor's Second Amended Complaint for Patent Infringement of U.S. Patent Nos. 4,621,643, 4,653,498, 4,700,708, 5,078,247, Re. 35,122 and Re. 36,000; Demand for Jury Trial, dated 10/13/00.	
	61	Masimo Corp.'s Answer to Plaintiffs' Second Amended Complaint and Counterclaims; Demand for Jury Trial, dated 11/2/00.	
	62	Mallinckrodt Inc.'s and Nellcor Puritan Bennett, Inc.'s Reply to Counterclaims of Masimo Corporation; Demand for Jury Trial, dated 12/1/00.	
	63	Nellcor's and Mallinckrodt's First Amended and Supplemental Reply and Counterclaims to Counterclaims of Masimo Corporation, dated 5/31/02.	
	64	Masimo's Reply to Nellcor's and Mallinckrodt's First Amended and Supplemental Reply and Counterclaims to Counterclaims of Masimo, dated 8/27/02.	
	65	Nellcor's Third Amended Complaint for Patent Infringement of U.S. Patent Nos. 4,621,643, 4,653,498, 4,700,708, 5,078,136, 5,807,247 and Re. 36,000; Demand for Jury Trial, dated 7/31/02.	
	66	Masimo's Answer to Counterclaims to Nellcor's Third Amended Complaint for Patent Infringement; Demand for Jury Trial, dated 8/27/02.	
2	67	Complaint for Patent Infringement of U.S. Patent No. 5,490,505; Demand for Jury Trial, dated 10/8/99, entered 10/15/99.	

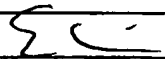
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	Examiner	Eric F. Winakur
SHEET 4 OF 14	Attorney Docket No.	MASIMO.7CP1C11


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E	68	Mallinckrodt's and Nellcor's Answer and Counterclaims, dated 11/1/99.	
	69	Plaintiff's Masimo Corp.'s Reply to Defendants' Counterclaims, dated 11/22/99.	
	70	Amended Complaint for Patent Infringement of U.S. Patent Nos. 5,490,505 and 6,036,642; Demand for Jury Trial, dated 4/5/00, entered 4/18/00.	
	71	Answer to First Amended Complaint and Amended Counterclaim; Demand for Jury Trial, dated 5/1/00.	
	72	Plaintiff Masimo Corp.'s Reply to Defendants' First Amended Counterclaims; Demand for Jury Trial, dated 5/18/00.	
	73	Nellcor's and Mallinckrodt's Amended and Supplemental Answer to Counterclaims to Masimo Corporation's First Amended Complaint in Case No. CV-01-7293-MRP (AJWx), dated 5/31/02.	
	74	Masimo's Reply to Nellcor's and Mallinckrodt's Amended and Supplemental Answer and Counterclaims to Masimo's First Amended Complaint in Case No. -01-7293 MRP (AJWx), dated 8/27/02.	
E	75	Memorandum of Decision re: Mallinckrodt and Nellcor's Motion for Summary Judgement of Invalidity of Claim 19 of U.S. Patent No. 5,490,505.	
	76	Minute Order 1) Granting Defendants' Motion for Summary Judgment of Non-Infringement of '642 Patent; 2) Denying Plaintiff's Motion for Preliminary Injunction; 3) Granting Plaintiff's Ex Parte Application to Strike Defendants' Supplemental Declaration, dated 10/4/00, entered 10/6/00.	
E	77	Defendant's Mallinckrodt's and Nellcor's Statement of Uncontroverted Facts and Conclusions of Law.	
	78	Findings of Fact and Conclusions of Law Regarding Masimo's Motion for Preliminary Injunction.	
E	79	Judgement in <i>Masimo Corp. v. Mallinckrodt Inc.</i> , Court of Appeals for the Federal Circuit No. 01-1038, dated 8/8/01, entered 10/17/01.	
	80	Memorandum of Decision and Order Re: 1) Claim Construction; 2) Motion to Strike Masimo's Declarations, entered 2/27/03.	
E	81	Final Judgment, entered 8/6/04.	
	82	Memorandum of Decision and Order Re: Post-Trial Motions, dated 7/12/04, entered 7/14/04.	
	83	Memorandum and Points and Authorities in Support of Mallinckrodt's and Nellcor's Motion for Summary Judgment of Invalidity of Claim 19 of U.S. Patent No. 5,490,505, dated 8/30/00.	
	84	Masimo's Opposition to Defendants' Motion for Summary Judgment for Summary Judgment of Invalidity of Claim 19 of U.S. Patent No. 5,490,505, dated 9/21/00.	
E	85	Reply Memorandum and Points and Authorities in Support of Mallinckrodt's and Nellcor's Motion for Summary Judgment of Invalidity of U.S. Patent No. 5,490,505, dated 10/13/00.	

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Σ	86	Brief of Plaintiff-Appellant Masimo Corporation, dated 12/8/00.	
Σ	87	Non-Confidential Brief of Defendants-Cross Appellants Mallinckrodt inc and Nellcor Puritan Bennett, Inc., dated 1/22/01.	
	88	Nonconfidential Reply Brief of Plaintiff-Appellant Masimo Corporation, dated 2/6/01.	
Σ	89	Masimo Corp.'s Initial Claim Construction on Its Asserted Patents, dated 6/21/02.	
1	90	Declaration of Jack Goldberg in Support of Masimo Corp.'s Initial Claim Construction on Its Asserted Patents, dated 6/21/02.	
	91	Notice of Errata and Corrected Appendices for Mallinckrodt's and Nellcor's Statement Regarding Disputed Claim Terms of the Asserted Patents, dated 9/12/02 (Final Version).	
	92	Expert Declaration of Robert T. Stone Re: Masimo's Patent-In-Suit, dated 7/18/02.	
Σ	93	Masimo Corp.'s Opening Memorandum of Claim Construction, dated 9/16/02.	
	94	Nellcor's and Mallinckrodt's Opening Claim Construction Brief on the Patent In-Suit, dated 9/16/02.	
Σ	95	Masimo Corp.'s Reply Memorandum on Claim Construction, dated 10/18/02.	
	96	Nellcor's and Mallinckrodt's Reply Claim Construction Brief on the Patents In-Suit, dated 10/18/02.	
Σ	97	Nellcor's Trial Brief on Indefiniteness, dated 3/23/04.	
	98	Masimo's Trial Brief of Indefiniteness, dated 3/24/04.	
	99	Nellcor's Trial Brief re Inequitable Conduct, dated 3/23/04.	
	100	Masimo's Trial Brief regarding Inequitable Conduct, dated 3/24/04.	
	101	Nellcor's Memorandum of Points and Authorities in Support of: (1) Argument on Bench Trial and (2) Renewed Motion for Judgment as a Matter of Law or Alternatively, a New Trial.	
	102	Masimo's Memorandum of Points and Authorities in Opposition to Nellcor's (1) Argument on Bench Trial and (2) Renewed Motion for Judgment as a Matter of Law or for a New Trial.	
Σ	103	Memorandum of Points and Authorities in Support of Masimo's Motion for (1) Judgment as a Matter of Law that Nellcor Literally Infringes Claim 17 of the '850 Patent and Claims 16 and 23 of the '222 Patent; (2) A Permanent Injunction; (3) An Accounting for Infringing Sales Occurring in 2004; and (4) Prejudgment Interest.	

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
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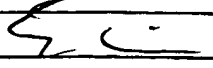
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	104	Nellcor's Opposition to Masimo's Motion for Judgment as a Matter of Law and Other Post-Trial Issues.	
	105	Brief of Defendant-Appellant Masimo Corporation.	
	106	Confidential Brief of Plaintiffs-Cross Appellants Mallinckrodt, Inc. and Nellcor Puritan Bennett, Inc.	
	107	Letter to Mr. Hornbaly, Clerk of Fed. Cir., indicating that the parties agreed that the Confidential Brief (Ref. No. 106) do not need to remain confidential.	
	108	Reply Brief of Defendant-Appellant Masimo Corporation.	
	109	Reply Brief of Plaintiffs-Cross Appellants Mallinckrodt, Inc. and Nellcor Puritan Bennett, Inc.	
	110	Nellcor's Response to Masimo's First Set of Interrogatories in the Consolidated Case to Mallinckrodt Inc. and Nellcor Puritan Bennett, Inc. (Nos. 1-8), dated 8/23/02.	
	111	Nellcor's Supplemental Response to Masimo's First Set of Interrogatories in the Consolidated Case (No. 2), dated 6/24/03.	
	112	Nellcor's Revised and Corrected Supplemental Response to Masimo's First Set of Interrogatories in the Consolidated Case (No. 2), dated 6/25/03.	
	113	Service Manual: Nellcor -100 Pulse Oximeter, 5 button model, Copyright 1993.	
	114	J. Corenman Computation Notebook, marked 06/23/82 - 06/22/83.	
	115	B. Widrow & S. Stearns, "Adaptive Signal Processing," Prentice-Hall, Copyright 1985.	
	116	N-100 Source Code, Copyright 1983-86.	
	117	N-100, Source Code, Copyright 1976-87.	
	118	"Welcome to the World of Nellcor Pulse Oximetry," Nellcor brochure, in 16 pages, undated.	
	119	"Oximax, Sensor Conversion Step," Nellcor brochure, copyright 1997.	
	120	"Motion-tolerant SpO ₂ ," Philips brochure, undated.	
	121	"Introducing New Hand-Held Digital Pulse Oximeter and Sensor with Patented Technologies," Philips, printed from internet site "http://www.oximetersonline.com", 1 page.	
	122	"Novamatrix Announces FDA Clearance of New Pulse Oximeter," 2-Mar-2000 Press release in 2 pages.	

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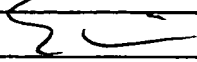
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	123	"Detax-Ohmeda Announces New Products at the American Society of Anesthesiologist, New Orleans," downloaded from internet in 3 pages.	
	124	"OSI Systems Announces FDA 510k Approval of First All Digital Pulse Oximeter Monitor," showing date of 4/23/01 in 2 pages.	
	125	Alaris Medical Systems, "Summary of Safety and Effectiveness" in 3 pages.	
	126	Letter to Alaris Medical Systems from Dept. of Health & Human Services, showing date of 9/11/02 in 3 pages.	
	127	BCI 510(k) FDA Submission 2000-2002.	
	128	Datex-Ohmeda 510(k) FDA Submission 2000-2002.	
	129	Dolphin 510(k) FDA Submission 2002.	
	130	Fukuda Denshi 510(k) FDA Submission 2001.	
	131	Nellcor Puritan Bennett 510(k) FDA Submission 1999-2002.	
	132	Nonin Medical 510(k) FDA Submission 2000.	
	133	OSI Medical 510(k) FDA Submission 2001.	
	134	Siemens Medical 510(k) FDA Submissions 2002.	
	135	SIMS BCI, Inc. 510(k) FDA Submissions 2001.	
	136	"Nellcor's Next Great Move Undated, Pulse Oximetry with ECG Synchronization . . . for Reduced Artifact," undated."	
	137	Operator's Manual, Nellcor N-200 Pulse Oximeter, Copyright 1987.	
	138	C. Baker; "Design Summary and Evaluation of Saturation Arbitrator," undated.	
	139	C. Baker & T. Yorkey, "Two Wavelength Saturation Algorithms," dated 09/14/94.	
		140	N-200 Oximeter Summary Sheets, Design History Records, dated 07/87-10/87.
141		PcSat Source Code.	

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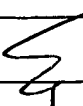
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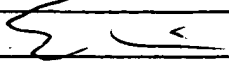
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	142	Directory listing and source code for Decsub, dated 1991-92.	
	143	Nelcor engineering order #1104 re N-100 C/D program assy, listing a date of 03/03/86.	
	144	Arye Nehorai, "A Minimal Parameter Adaptive Notch Filter With Constrained Poles and Zeros," IEEE Transactions on Acoustics, Speech and Signal Processing, Vol. ASSP-22 No. 4, August 1985.	
	145	Nehorai, Arye, "Adaptive Comb Filtering for Harmonic Signal Enhancement," IEEE Transaction of Acoustics, Speech and Signal Processing, October 1986.	
	146	Hendry, S.D., "Computation of Harmonic Comb Filter Weights," IEEE Transactions on Signal Processing, April 1993.	
	147	C. Baker & T. Yorkey, "O4 Summary" Nelcor, listing a date of 08/05/94.	
	148	M. Jopling, P. Mannheimer & D. Bebout; "Issues In The Laboratory Evaluation Of Pulse Oximeter Performance"; Anesthesia & Analgesia, Vol. 94, Copyright 2001.	
	149	Nelcor Engineering Order, listing date of 03/15/89.	
	150	Nelcor's Sales & Shipment Records 3/89 to 3/90.	
	151	C. Baker and T. Yorkey, "O4 Two Wavelength Saturation Algorithms," listing date of 09/14/94.	
	152	Declaration of Clark R. Baker, dated 08/15/00.	
	153	Declaration of Thomas J. Yorkey, dated 08/20/00.	
	154	P. Mannheimer and D. Bebout, "A Critical Review of Motion in Pulse Oximetry," undated.	
	155	Tobin, Pologe and Batchelder, "A Characterization of Motion Affecting Pulse Oximetry in 350 Patients," Anesthesia & Analgesia, Vol. 94, Copyright 2001.	
	156	R. Brown and P. Hwang, "Introduction to Random Signals and Applied Kalman Filtering," 2nd Ed., John Wiley & Sons, Inc., New York, Copyright 1992.	
	157	IEEE 100, "The Authoritative Dictionary of IEEE Standards Terms," 7th ed., IEEE Press Publications, Copyright 2000.	
	158	Haykin, S., "Adaptive Filter Theory," 1st ed., Prentice-Hall, Inc., 1986.	
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
INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(Multiple sheets used when necessary)</i>	Application No.	10/676,534
	Filing Date	September 30, 2003
	First Named Inventor	Mohamed K. Diab
	Art Unit	3736
SHEET 9 OF 14		Examiner Eric F. Winakur
		Attorney Docket No. MASIMO.7CP1C11


NON PATENT LITERATURE DOCUMENTS			
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	161	Clark R. Baker and Thomas J. Yorkey, "A Proposal for PostProcessing and Display for 04 Saturation and Pulse-Rate Algorithms," dated 10/4/93.	
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	169	Letter from T. Ulatowski (FDA) to G. To (Nellcor Puritan Bennett, Inc.) with Nellcor 510(K) enclosures, dated 09/24/02.	
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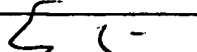
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	209	Trial Transcript in <i>Mallinckrodt, Inc., et al v. Masimo Corporation</i> , CV 00-6506 MRP, 2/19/04 (Pgs 112-235).	
	210	Trial Transcript in <i>Mallinckrodt, Inc., et al v. Masimo Corporation</i> , CV 00-6506 MRP, 2/20/04 (Pgs 237-320).	
	211	Trial Transcript in <i>Mallinckrodt, Inc., et al v. Masimo Corporation</i> , CV 00-6506 MRP, 2/23/04 (Pgs 427-625).	
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	213	Trial Transcript in <i>Mallinckrodt, Inc., et al v. Masimo Corporation</i> , CV 00-6506 MRP, 2/25/04 (Pgs 807-902).	
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E	218	Trial Transcript in <i>Mallinckrodt, Inc., et al v. Masimo Corporation</i> , CV 00-6506 MRP, 3/3/04 (Pgs 1618-1795).	
	219	Trial Transcript in <i>Mallinckrodt, Inc., et al v. Masimo Corporation</i> , CV 00-6506 MRP, 3/4/04 (Pgs 1796-1986).	
	220	Trial Transcript in <i>Mallinckrodt, Inc., et al v. Masimo Corporation</i> , CV 00-6506 MRP, 3/5/04 (Pgs 1987-2145).	
	221	Trial Transcript in <i>Mallinckrodt, Inc., et al v. Masimo Corporation</i> , CV 00-6506 MRP, 3/8/04 (Pgs 2146-2346).	
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	223	Trial Transcript in <i>Mallinckrodt, Inc., et al v. Masimo Corporation</i> , CV 00-6506 MRP, 3/10/04 (Pgs 2529-2663).	
	224	Trial Transcript in <i>Mallinckrodt, Inc., et al v. Masimo Corporation</i> , CV 00-6506 MRP, 3/11/04 (Pgs 2664-2801).	
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	226	Trial Transcript in <i>Mallinckrodt, Inc., et al v. Masimo Corporation</i> , CV 00-6506 MRP, 3/16/04 (Pgs 2861-3036).	
	227	Trial Transcript in <i>Mallinckrodt, Inc., et al v. Masimo Corporation</i> , CV 00-6506 MRP, 3/17/04 (Pgs 3037-3244).	
	228	Trial Transcript in <i>Mallinckrodt, Inc., et al v. Masimo Corporation</i> , CV 00-6506 MRP, 3/18/04 (Pgs 3245-3416).	
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	237	Widrow, B., "Adaptive Signal Processing," Prentice Hall, Englewood, NJ, 1985.	
	238	Yelderman, M., et al. "ECG Enhancement by Adaptive Cancellation of Electrosurgical Interference," IEEE Transactions on Biomedical Engineering, Vol. BME-30 No. 7, July 1983.	
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	243	J. Giolma, "Defining Respiratory Epochs Using an Adaptive AR Filter," ISA Paper #89-0236, pp. 227-232, 1989.	
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	252	Chapter 6: The LMS Algorithm, Adaptive Algorithms and Structure Part III, undated.	
	253	"Nellcor N-200 Leads Beyond Pulse Oximetry," undated.	
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	255	"N-200 Pulse Oximeter with C-Lock ECG Synchronization," undated.	


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	256	D.P. Brown, "Evaluation of Pulse Oximeters using Theoretical Models and Experimental Studies," University of Washington, November 24, 1987.	

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